

Appl. No. 10/736,282
Atty. Docket No. AA556C
Amdt. dated May 12, 2006
Reply to Office Action of Feb. 16, 2006
Customer No. 27752

REMARKS

Claim Status

Claims 1 - 10 are pending in the present application, and new claims 11-18 have been added. No additional claims fee is believed to be due.

New claims 11-18 have been added. Support for these amendments can be found in the specification, for example, at page 7, lines 23-24; page 7, lines 28-29; page 8, lines 9-15; page 8, lines 15-20; page 8, lines 28-34; page 10, lines 4-6; and page 10, lines 4-8.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Rejection Under 35 USC §102 Over Buell et al.

Claims 1-10 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,221,274 issued to Buell et al., hereafter, "Buell". Applicants respectfully traverse the rejection by the Office.

It is well settled that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Buell does not teach all of the claim elements of the present invention.

Claim 1 recites, in part, that the chassis layer includes "a plurality of spaced discontinuities being open to provide the chassis layer with extensibility in the transverse direction." The application states that "[t]he discontinuities are arranged to define in the chassis layer 21 a predetermined pattern of discrete localized regions of slits, cuts, or perforations." (Application, page 7, lines 25-26). These discontinuities, when placed under tension provide a plurality of openings that extend through the chassis layer 21. (Application page 7, lines 20-21).

Buell teaches "absorbent articles having a unique elastic waist feature improving the dynamic fit as well as containment characteristics." (Abstract). Buell also teaches that the absorbent article comprises an elasticized waistband 35. (col. 7, lines 32-33).

Appl. No. 10/736,282
Atty. Docket No. AA556C
Amdt. dated May 12, 2006
Reply to Office Action of Feb. 16, 2006
Customer No. 27752

The elasticized waistband 35 “preferably comprises a portion of the topsheet 24, a portion of the backsheet 26 that has preferably been mechanically stretched, and a bi-laminate material comprising an elastomeric member 76 positioned between the topsheet 24 and the backsheet 26.” (col. 7, lines 33-37). The elasticized waistband 35 further comprises, preferably, “a resilient member 77 positioned between the backsheet 26 and the elastomeric member 76.” (col. 7, lines 38-40). “The resilient member 77 also has a relatively high caliper to provide a Z-direction bulk so as to somewhat fill the pleats 80 or rugosities of the elasticized waistband 35.” (col. 19, lines 7-10).

However, in contrast to the discontinuities claimed and described in the application, the pleats 80 and rugosities of Buell do not provide a plurality of openings which extend through the chassis layer when placed under tension. Instead, when placed under tension, the pleats 80 or rugosities of the elasticized waistband 35 tend to flatten out. As such, Buell does not teach the discontinuities of the claim 1.

Claim 3 recites, in part, that “the extensibility controlling means inhibits the chassis layer from extending beyond 20% at tension force of 125 grams/25mm.” The Office asserts that Buell teaches an elastomeric foam used to fabricate elastomeric members 76 which have an extension force of about 200 grams/inch at 50% extension. (Office Action, page 3).

However, Buell teaches that “[o]ne elastomeric material which has been found to be especially suitable for use as the elastic side panel member 90... is an elastomeric foam having an elongation to break of at least about 400% and an extension force of about 200 grams per inch of sample.” (col. 42, lines 52-58). As shown in Figure 1, the elastic side panel 90 is different from the elastomeric member 76. Additionally, Buell does not teach that the elastomeric foam which is desirable in the side panels 90 can be utilized in the elastomeric members 76. As such, Buell does not teach all of the claim elements of claim 3.

Claim 4 recites, in part, that the “extensibility controlling means is disposed in the first or second waist panel in the transverse direction across at least the transverse width of the plurality of spaced discontinuities.” Based on the position of the side panels 90, Buell does not teach an extensibility controlling means which is disposed across at least the transverse width of the plurality of spaced discontinuities, as is recited, in part, by claim 4.

Appl. No. 10/736,282
Atty. Docket No. AA556C
Amdt. dated May 12, 2006
Reply to Office Action of Feb. 16, 2006
Customer No. 27752

For the foregoing reasons Applicants assert that claims 1-4 are not anticipated by Buell. Additionally, because claims 5-10 depend from claim 1, Applicants assert that they too are not anticipated by Buell. Accordingly, Applicants assert that claims 1-10 are in condition for allowance.

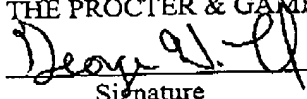
Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejection under 35 U.S.C. § 102(b). Early and favorable action in the case is respectfully requested.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By



Signature

George H. Leal

Typed or Printed Name

Registration No. 56,813

(513) 634-1597

Date: May 12, 2006
Customer No. 27752